

2223. Adulteration and misbranding of canned cherries. U. S. v. 10 Cases of Canned Cherries. Default decree of forfeiture and destruction. (F. D. C. No. 4585. Sample No. 60593-E.)

These cherries failed to conform to the standard of quality for such food since they were not uniform in size and more than 15 percent of them were blemished. Furthermore, examination disclosed the presence of moldy cherries.

On May 2, 1941, the United States attorney for the District of Idaho filed a libel against 10 cases, each containing 6 No. 10 cans, of cherries at Boise, Idaho, alleging that the article had been shipped on or about November 6, 1940, in pool car shipment for MacDonald Andrews Co. from Portland, Oreg.; and charging that it was adulterated and misbranded. It was labeled in part: "Spencerian Brand Water Pack Light Sweet Royal Anne Cherries Spencer Packing Co. Lebanon, Oregon, U. S. A."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

It was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, since more than 15 percent of such cherries were blemished and the weight of the largest cherry in the container was more than twice the weight of the smallest cherry, and its label did not bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On June 13, 1941, no claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

2224. Misbranding of canned cherries. U. S. v. 181 Cases of Canned Cherries. Consent decree of condemnation and destruction. (F. D. C. No. 4506. Sample No. 59142-E.)

This product was not of Fancy quality, as represented in the labeling, because of the presence of too many spotted cherries.

On April 28, 1941, the United States attorney for the Eastern District of Virginia filed a libel against 181 cases of canned cherries at Norfolk, Va., alleging that the article had been shipped in interstate commerce on or about September 17 and November 13, 1940, by C. H. Musselman Co. of Biglerville, Pa., from Baltimore, Md.; and charging that it was misbranded in that the term "Fancy Quality" was false and misleading as applied to an article that was not Fancy. The article was labeled in part: (Cans) "Musselman's Red Sour Pitted Cherries Fancy Quality Water Pack."

On June 16, 1941, the C. H. Musselman Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of the Food and Drug Administration.

2225. Misbranding of canned fruit cocktail. U. S. v. 16 Cases of Canned Fruit Cocktail. Default decree of condemnation. Product ordered destroyed or delivered to a charitable institution. (F. D. C. No. 4879. Sample No. 55675-E.)

Examination showed that this product was not of Fancy quality because of excessive amounts of very small pieces and some very large pieces of peaches and pears, excessive amounts of mashed or blemished grapes and pineapple sectors, and small pieces of cherries.

On June 9, 1941, the United States attorney for the District of Oregon filed a libel against 16 cases, each containing 48 cans, of fruit cocktail at Portland, Oreg., alleging that the article had been shipped on or about April 3, 1941, by Norman L. Waggoner Co. from San Francisco, Calif.; and charging that it was misbranded. It was labeled in part: (Cans) "Preferred Stock Fancy Fruit Cocktail * * * Contents 8 $\frac{3}{4}$ Oz."

The article was alleged to be misbranded in that the term "Fancy" and the statement "Guaranteed to Comply with all * * * National Pure Food Laws" were false and misleading as applied to an article that was not of Fancy quality; and as applied to an article that did not comply with all National pure food laws.

On July 14, 1941, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed or delivered to a charitable institution.

2226. Adulteration of canned gooseberries. U. S. v. 14 Cases of Canned Gooseberries. Default decree of forfeiture and destruction. (F. D. C. No. 4737. Sample No. 60584-E.)

Examination showed that this product contained worms.

On May 9, 1941, the United States attorney for the District of Idaho filed a libel against 14 cases, each containing 6 No. 10 cans, of gooseberries at Boise,